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Human rights and unilateral coercive measures

Report of the Secretary-General

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 52/120 of 12 December 1997, entitled "Human rights and unilateral coercive measures".

2. In that resolution, the General Assembly, recalling its resolution 3281 (XXIX) of 12 December 1974 containing the Charter of Economic Rights and Duties of States; recognizing the universal, indivisible, interdependent and interrelated character of all human rights and reaffirming the right to development as an integral part of all human rights; recalling that the World Conference on Human Rights called upon all States to refrain from any unilateral coercive measure not in accordance with international law and the Charter of the United Nations that created obstacles to trade relations among States and impeded the full realization of all human rights; bearing in mind all the references to the question in the Copenhagen Declaration on Social Development, the Beijing Declaration and Platform for Action and the Istanbul Declaration on Human Settlements and the Habitat Agenda; deeply concerned that unilateral coercive measures continued to be promulgated and implemented with all their extraterritorial effects, *inter alia*, on the economic and social development of targeted countries and peoples and individuals under the jurisdiction of other States; and reaffirming the criteria of the Working Group on the Right to Development according to which unilateral coercive measures were one of the obstacles to the implementation of the Declaration on the Right to Development:

- Urged all States to refrain from adopting or implementing any unilateral measure not in accordance with international law and the Charter of the United Nations, in particular those of a coercive nature with all their extraterritorial effects, which created obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development (para. 1);
- Rejected unilateral coercive measures with all their extraterritorial effects as tools for political or economic pressure against any country, in particular against developing countries, because of their negative effects on the realization of all the human rights of vast sectors of their populations, in particular children, women and the elderly (para. 2);
- Called upon Member States that had initiated such measures to commit themselves to their obligations and responsibilities arising from the international human rights instruments to which they were party by revoking such measures at the earliest time possible (para. 3);
- Reaffirmed, in that context, the right of all peoples to self-determination, by virtue of which they freely determined their political status and freely pursued their economic, social and cultural development (para. 4);
- Urged the Commission on Human Rights to take fully into account the negative impact of unilateral coercive measures, including enactment of national laws and their extraterritorial application, in its task concerning the implementation of the right to development (para. 5);
- Requested the United Nations High Commissioner for Human Rights, in discharging her functions relating to the promotion, realization and protection of the right to development, to give urgent consideration to the resolution in her annual report to the General Assembly (para. 6);
- Requested the Secretary-General to bring the resolution to the attention of all Member States, to seek their views and information on the implications and negative effects of unilateral coercive measures on their populations and to submit accordingly a report thereon to the General Assembly at its fifty-third session (para. 7);
- Decided to examine the question on a priority basis at its fifty-third session under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms" (para. 8).

3. In accordance with paragraph 7 of the resolution, the Secretary-General, in a note verbale dated 7 May 1998, and reminders thereto dated 30 June 1998, invited Member States to transmit information relevant to the subject matter.

4. As at 24 July 1998, replies were received from Cuba, Fiji, the Islamic Republic of Iran and the Sudan. Any additional replies will be compiled and submitted as addenda to the present report.

II. Replies received from Governments

Cuba

[Original: Spanish]
[8 July 1998]

1. The Government of the Republic of Cuba attaches great importance to the consideration of this item by the General Assembly and the Commission on Human Rights, given the adverse effects of unilateral coercive measures on the countries against which such measures are applied. It is well known that Cuba joins in sponsoring the draft resolution on this subject year after year in both forums.

2. The unquestionable importance and undeniable relevance and validity of considering this item were reliably demonstrated at the World Conference on Human Rights, whose consensus final Declaration "calls upon States to refrain from any unilateral measure not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among States and impedes the full realization of the rights set forth in the Universal Declaration of Human Rights and international human rights instruments, in particular the right of everyone to a standard of living adequate for their health and well-being, including food and medical care, housing and the necessary social services. The World Conference on Human Rights affirms that food should not be used as a tool for political pressure."

3. Cuba is a clear example of a country against which such measures have been applied for almost 40 years. The adverse economic and social effects of such practices are considerable, as is clearly reflected in the reports (A/48/448, A/49/398 and Add.1, A/50/401, A/51/355 and Add.1 and A/52/342 and Corr.1) submitted by the Secretary-General of the United Nations under the General Assembly agenda item entitled "Necessity of ending the economic, commercial and financial blockade imposed by the United States of America against Cuba".

4. The arbitrary actions of the United States need to be ended as a matter of urgency. Although the bulk of such actions target Cuba, which it is attempting to stifle by means of a total blockade, the economic sanctions imposed unilaterally by Washington against other countries are increasing. According to data published by the United States-based National Association of Manufacturers, between 1993 and 1996 the United States enacted 61 pieces of legislation imposing such sanctions against 35 countries. In addition, 40 pieces of similar legislation were enacted by state and local governments against a further 18 countries.

5. The international community has condemned repeatedly the harm done by such measures not only to trade relations among States but also to the full realization and enjoyment of human rights. In Cuba's case, the General Assembly has adopted, over the past six years, resolutions 47/19, 48/16, 49/9, 50/10, 51/17 and 52/10 on the necessity of ending the economic, commercial and financial blockade against Cuba, all of which have been totally ignored by the United States, which has instead adopted a succession of new measures to tighten the blockade and further violate the sovereignty of other States.

6. Cuba is deeply convinced that, in the present international circumstances, the international community must continue to vigorously condemn the use of such practices and take urgent action to enforce the relevant decisions of the General Assembly and the Commission on Human Rights.

Ecuador

[Original: Spanish]
[22 July 1998]

1. The Government of Ecuador has no comments on the resolution in question, which it considers to be in keeping with the principles that guide the country's international policy.

2. In this connection, Ecuador reiterates its opposition to the adoption of any kind of unilateral coercive measures (economic, political or otherwise) not in accordance with international law which a State applies or seeks to use to the detriment of another State and third States. Not only does such action violate the principle of the non-extraterritoriality of domestic law but it also infringes State sovereignty, the self-determination of peoples and the right to development, which is universal, interdependent and indivisible from human rights.

Fiji

[Original: English]
[7 May 1998]

The Government of Fiji honours strictly its commitments and obligations under the Universal Declaration of Human Rights and, as such, the Fiji Government does not have any legislation, administrative or economic measures which are of coercive nature against any Member of the United Nations.

Islamic Republic of Iran

[Original: English]
[14 July 1998]

1. Unilateral coercive measures as a breach of international law and violation of the right to development

1. As the world approaches a new millennium, the imperative of respect for the rules of international law governing the conduct of relations among various international actors becomes ever more apparent. The collapse of the bipolar international system, coupled with increasing globalization and global interdependence, requires more than anything else the prevalence of the rule of law. The rule of law in this newly emerging international community will lead to further confidence and solidarity. The rule of law is also among the requirements and manifestations of collective decision-making and also the collective implementation of those decisions in the international community. It is only through this process that the interests of all, large and small, may be secured and ensured.

2. Meanwhile there is a growing tendency among a very few powerful States to insist upon unilateral measures in clear contradiction of international law. One of the most extreme forms of such unilateral measures is the extraterritorial application of national legislation in the form of economic sanctions, which has become an instrument of foreign policy and pressure on other States.

3. The international community has authorized the United Nations solely to take coercive measures in cases of the existence of any threat to the peace, breach of the peace or act of aggression in order to maintain or restore international peace and security. Thus unilateral coercive measures taken by States outside the said procedure have no legal basis or justification and, since they undermine the economic, social and cultural development of the targeted States, they contradict the principles and objectives enshrined in the Charter of the United Nations.

4. International economic relations should be based on free trade, and sustainable development is achievable through due respect to this principle. Article 32 of the Charter of Economic Rights and Duties of States affirms that "no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of its sovereign rights" (see General Assembly resolution 3281 (XXIX)).

5. The Vienna Declaration and Programme of Action has recognized the right to development as a universal and inalienable right and an integral part of fundamental human rights. Development is considered as the most reliable basis for peace, and underdevelopment will lead to international tensions and an unreal need for military power. Sustainable development requires two essential elements: a national supportive atmosphere and favourable international economic environment.

2. Unilateral coercive measures taken against the Islamic Republic of Iran

6. The establishment of the Islamic Republic of Iran in the strategic region of the Middle East disturbed the balance of many regional policies of the super-Powers at the time and changed the political and security structure of the region, which had previously been founded on the strategies of the United States of America. This historic upheaval caused many changes in United States/Iranian relations and led to the adoption of a hostile attitude by the United States against the Islamic Republic of Iran.

7. The collapse of the Eastern bloc and the Soviet Union led to redoubled efforts of the United States to strengthen its fanciful so-called new world order and to design a monopolar system in which the United States has a leadership and pivotal role. One of the most evident instances of this strategy is the extraterritorial application of national legislation by the United States Government. The enactment and implementation of the Iran and Libya Sanctions Act of 1996 (D'Amato Act) as well as the Helms-Burton Act against Cuba are recent examples – and the most despotic ones – of United States unilateralism in international relations.

8. Before taking action on the D'Amato Act the Government of the United States of America had already taken several measures against the Islamic Republic of Iran, among which are the following:

- At the climax of the Iraqi military aggression against the Islamic Republic of Iran in 1983, the United States raised an embargo against the Islamic Republic the aim of which was to prevent it from having access to any kind of dual-purpose weapons in any part of the world. The hidden objective of this embargo was to support Iraq in its aggression against the Islamic Republic;
- On 29 October 1987, the then President of the United States, Ronald Reagan, by Decree No. 12613, prohibited any imports from the Islamic Republic as

well as the export to Iran of 14 products potentially applicable for military purposes;

- The export of some chemical materials to the Islamic Republic was banned by two decrees dated March 1984 and July 1987 respectively;
- The United States budget bill for foreign operations enacted in 1993 conditioned the granting of aid to the Soviet Union on the possibility of serious negotiations with that country with the aim of reducing the export of complex conventional weapons to the Islamic Republic;
- By an executive order of 15 March 1995 the President of the United States banned any foreign trade or investment in the Islamic Republic, including the trade in Iranian oil by American companies or their affiliated foreign companies;
- According to a United States presidential order of 6 May 1995, the Islamic Republic of Iran was put under an overall economic embargo. The Office of Foreign Assets Control (OFAC) had the responsibility for the implementation of the embargo. This order included a ban on bank services, financial investment, the import and export of goods and services and the prohibition of the issuance of visas for Iranian merchants;
- In addition to the above-mentioned cases, the Government of the United States took some other unilateral and hostile measures against the Islamic Republic of Iran, including launching military operations against Iranian oil platforms in the Persian Gulf, targeting an Iranian civil aeroplane leading to the martyrdom of more that 280 passengers, embarking on a policy of dual containment in the region and appropriating a budget of $20 million for the dismantling of the Islamic Government in Iran.

9. The D'Amato Act (Iran and Libya Sanctions Act of 1996) was approved by the Ways and Means Committee of the United States House of Representatives in order to impose sanctions on persons making certain types of direct investments in the Islamic Republic of Iran and the Libyan Arab Jamahiriya and thereby significantly contributing to the enhancement of the ability of one or the other of those countries to develop their petroleum resources.

10. In approving the Act the United States Congress declared that it was the policy of the United States to deny the Islamic Republic the ability to support its so-called acts of international terrorism and to finance the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of the country's ability to explore for, extract, refine, or transport by pipeline its petroleum resources. These baseless allegations against the Islamic Republic have been levelled without any evidence or justification, even for the American people themselves.

11. Under the D'Amato Act and in order to further United States objectives, the United States Congress urged the President to commence immediately diplomatic efforts in appropriate international forums, such as the United Nations, as well as bilaterally, within national forums, for example, in the United States itself, to establish a multilateral sanctions regime against the Islamic Republic. The Act provides that the President shall impose two or more of the sanctions described in section 6 of the Act if the President determines that a person has made an investment of at least US $40 million (or any combination of investments of at least $10 million each, which in the aggregate equals or exceeds $40 million in any 12-month period) which directly and significantly contributed to the enhancement of the Islamic Republic's ability to develop its petroleum resources.

12. Section 6 of the Act states that the sanctions to be imposed on such a person are as follows:

(a) *Export-Import Bank assistance for exports to sanctioned persons.* The President may direct the Export-Import Bank of the United States not to give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to any sanctioned person;

(b) *Export sanction.* The President may order the United States Government not to issue any specific licence and not to grant any other specific permission or authority to export any goods or technology to a sanctioned person under: (i) the Export Administration Act of 1979; (ii) the Arms Export Control Act; (iii) the Atomic Energy Act of 1954; or (iv) any other statute that requires the prior review and approval of the United States Government as a condition for the export or re-export of goods or services;

(c) *Loans from United States financial institutions.* The United States Government may prohibit any United States financial institution from making loans or providing credits to any sanctioned person totalling more than $10 million in any 12-month period unless such person is engaged in activities to relieve human suffering and the loans or credits are provided for such activities;

(d) *Prohibitions on financial institutions.* The following prohibitions may be imposed against a sanctioned person that is a financial institution:

(i) *Prohibition on designation as primary dealer.* Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution as a primary dealer in United States Government debt instruments;

(ii) *Prohibition on service as a repository of government funds.* Such financial institution may not serve as an agent of the United States Government or serve as a repository for United States Government funds. The imposition of either sanction under subparagraph (i) or (ii) shall be treated as a sanction for purposes of section 5 (of the Act);

(e) *Procurement sanction.* The United States Government may not procure, or enter into any contract for the procurement of, any goods or services from a sanctioned person;

(f) *Additional sanctions.* The President may impose sanctions, or restrict imports with respect to a sanctioned person, in accordance with the International Emergency Economic Powers Act (50 U.S.C. 1701 and following).

13. Section 5 of the Act provides that the President shall cause to be published in the *Federal Register* a current list of persons and entities on whom sanctions have been imposed under the Act. The removal of persons or entities from, and the addition of persons and entities to the list, shall also be so published. The President shall also cause to be published in the *Federal Register* a list of all significant projects which have been publicly tendered in the oil and gas sector in the Islamic Republic.

3. Adverse effects of the coercive measures by the United States upon the economy of the Islamic Republic

14. Several unilateral coercive measures taken by the United States led to the relative disruption of the country's economic system. As a result of those measures the Government of the Islamic Republic had to change some of the economic policies which had formed the basis of its five-year plans for economic, social and cultural development. Owing to the reduction in the import of certain raw materials, some industries were unable to perform at full capacity, thus causing a decline in the growth of the country's gross national product (GNP). Some of the Islamic Republic's traditional suppliers of goods were inhibited from negotiating with it for fear of subsequent reprisals.

15. The economic embargo undermined the implementation of certain of the Islamic Republic's main projects and some foreign investors revised and postponed their economic investment in the country. The number of companies participating in its economic tenders decreased and this weakened the country's ability to deal with its international lenders and to maintain its economic defence.

16. The lack of a direct presence of the Islamic Republic in many international markets compelled Iranian producing industries to sell their products at below-normal and unreal price levels. The country also had to purchase industrial and agricultural products at second hand and at elevated prices.

17. The collapse of the Soviet Union and the emergence of the newly independent countries of Central Asia could provide new markets for sectors of the Iranian economy but the United States by pursuing its exclusivist policies which exceed the limits of healthy and customary financial and economic competition has limited the scope of activities of the Iranian merchants and companies in the region.

18. United States influence on the international financial institutions, especially the International Monetary Fund and the World Bank, has placed difficulties in the way of the Islamic Republic's enjoyment of the services of those institutions. The implementation of the D'Amato Act has impeded credit transactions of the Islamic Republic and limited its options availing itself of the facilities of the Paris Club. On the other hand, United States pressure on the Islamic Republic's contracting partners has delayed the conclusion of negotiations on credit transactions and thus increased the economic risks of the contracts.

19. As a result of United States pressure the export insurance coverage of the Islamic Republic's contracting partners, which had already decreased considerably owing to problems in foreign debt payments, was not renewed despite the fact that the debt payments had resumed their normal pace in the following months. The resulting financial shortages led to some unforeseen delays in the full implementation of the second five-year plans for economic, social and cultural development.

20. The petroleum and oil sector of the Islamic Republic's economy was more vulnerable than others in the face of the United States measures. The sector's difficulties were attributable, among other things, to a reduction in international investment, delays in the execution of some oil projects, the cancellation of some tender contracts,

technological shortcomings and an increase in negotiating expenses.

21. The United States policies also led to a scarcity of some of the essential goods that are needed for the improvement of the nutritional and health-care standards of the Iranian people.

22. The harmful consequences of the coercive measures by the United States against the Islamic Republic could have been worse than what is described above but due to the additional efforts and the remedial measures taken by the Government and the solidarity of Iranian nation, some of the adverse effects of those policies were minimized and neutralized. Nevertheless, the above-mentioned effects are extremely significant and should not be underestimated. The international community should appropriately take note of such inhuman measures and their grave consequences for human rights and take firm action to prevent those Governments from initiating such measures, which constitute a grave violation of human rights.

Sudan

[Original: English]
[6 July 1998]

1. Impact of the decision of the United States of America to impose economic sanctions on the Sudan on 11 April 1997

1. The total suspension of the import of spare parts, such as railway equipment, aeroplanes and agricultural equipment, has severely affected the agricultural seasons and subsequently hindered the transport of relief to the southern part of the Sudan.

2. The freezing of the bank accounts of some voluntary organizations working in the country has had a negative impact upon humanitarian assistance activities.

3. Many companies involved in the export and import of medicines and agricultural products have been greatly harmed, especially after their accounts in various banks were frozen. Consequently, they endured huge losses as they had to pay fines.

4. The freezing of $5 million of funds of the Government of the Sudan in United States of America banks was in contravention of international law. This amount also included Sudan's monthly instalment payable to the World Bank, which adversely affected Sudan's relations with the Bank.

5. The transport facilities of the oil refinery belonging to Sudanese private company Concorp were hampered.

6. Some private American companies, such as the Coca Cola Company, have been badly affected.

7. Salary transfers to some Sudanese diplomatic missions have been suspended for some time.

8. The commercialization and marketing of Arabic gum, a major Sudanese export product, also has been badly affected, although it has been exempted from the decision.

2. Impact of the decision of the European Union to suspend its development aid to the Sudan

9. The decision of the European Union (EU) in 1991 to halt development aid to the Sudan has adversely affected the projects under implementation in the fields of development, environment, health, agriculture and education.

10. This has prevented the Sudan from dealing with the international financial institutions and consequently prevented it from paying its arrears to these institutions.

11. Decisions to politically boycott and isolate the Sudan has led to a halt in the visits and contacts between the Sudan and other countries. Moreover, the European Union turned a deaf ear to reports on the political developments in the country and the peace efforts of the Government.

12. The economic sanctions have caused the standard of living to deteriorate and led to the spread of hunger and poverty particularly among the vulnerable groups such as children, women and the elderly.

13. The Sudan has been deprived of the benefits of the technical cooperation and assistance provided by the EU countries in the field of forestry and agriculture. This has resulted in the deterioration of environment and an increase in desertification and drought.

14. The Sudan's entitlements in the country programme, and the STABEX programme within the Lomé Convention totalling $400 million have been frozen. Of that amount, $276 million was part of the Sudan's dues under the second and third Lomé Conventions, whereas $121 million has been allocated to support the Sudan's structural adjustment programme.